



19th JUDICIAL DISTRICT SERVICES RESTRICTION PLAN

FISCAL YEAR 2015

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DISTRICT DEFENDER

RESTRICTION OF SERVICES STATEMENT

The 19th Judicial District Public Defenders Office for the Parish of East Baton Rouge provides legal representation guaranteed by the United States and Louisiana Constitution to clients in 22,918 cases each year who are indigent and unable to seek private counsel. Despite the diligent efforts of the Public Defenders Office to reduce expenditures and increase revenues, the Public Defenders Office has been unable to secure the resources necessary to provide competent legal representation for all of its clients and must begin service restriction. Service restrictions caused by insufficient funding may create a constitutional crisis for indigent defendants, who are guaranteed equal access to justice, and may have practical consequences for the efficient administration of criminal justice and for the public safety of the East Baton Rouge Parish community.

Faced with this fiscal crisis, the 19th Judicial District Public Defenders Office has no choice but to restrict the delivery of service currently provided to the East Baton Rouge Parish community in an effort to reduce expenditures. The Restriction of Services (ROS) plan implements an immediate hiring freeze and redistributes caseloads in sections of court where attorneys currently maintain unacceptable caseloads. This plan reduces monthly expenditures by \$36,283.36 (8.3%) and cuts attorney staff by 12% in the short term. The 19th Judicial District Public Defenders Office deeply regrets the hardships caused by the restriction of services and will continue to work with its partners to secure adequate, sustainable funding to restore its capacity to provide constitutionally mandated public defender services for eligible clients.

PROTECTED WORK PRODUCT

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OVERVIEW OF SERVICE RESTRICTIONS

The 19th Judicial District Public Defenders Office is a hybrid public defender office, employing both full-time and contract attorneys. The Public Defenders Office employs 49 attorneys, some attorneys also maintain a private practice. The office also contracts with a nine member conflict panel. To reduce expenditures, the Public Defenders Office will restrict services by immediately implementing a hiring freeze and redistributing caseloads in sections of court where attorneys maintain excessive caseloads (i.e. Section 3 of the 19th Judicial District Court and Baton Rouge City Court). The District

Defender and Louisiana Public Defender Board (LPDB) Staff will monitor attorney caseloads, should caseloads exceed ethical caseload maximums a waiting list for new clients will be established for new clients.

We will eliminate six attorney positions, an investigator, and an administrative position. No staff members will be laid off as part of the Restriction of Services plan, as each position lost is due to attrition. Currently, attorneys in Section 3 of the 19th Judicial District Court and in Baton Rouge City Court maintain caseloads in excess of ethical caseload limits. Therefore, I will move an attorney from another section of District Court to Section 3. Additionally, the two attorneys who currently represent clients in Non Support Contempt cases will begin representing clients in Baton Rouge City Court to help alleviate some of the excess caseloads carried by those attorneys. In my capacity as District Defender, I will supervise the caseloads of the remaining attorneys to ensure that caseloads remain manageable for the effective assistance of counsel.

Additionally, the office has taken measures to reduce operating expenses by cancelling its Westlaw subscription and obtaining LexisNexis at a greatly reduced rate. The significant reductions to staffing undertaken in this Restriction of Services Plan are made as part of a long-term strategy to protect the viability of public defense services in East Baton Rouge Parish. This plan protects the constitutional rights of clients while also protecting public safety while preventing unnecessary delays in the criminal justice system. The measures listed above will result in a savings of \$253,983.53 through the end of FY15. Expenditure reductions in excess of the office's projected FY15 shortfall are necessary as during FY16 the 19th Judicial District Public Defenders Offices has a projected shortfall of \$665,950. Without a long-term strategy to reduce expenditures, the office would be forced to make drastic cuts to staffing and thus client representation to prevent insolvency.

Administrative Staff Salary Reductions:	\$ 39,303.83
Additional Attorney Staff Salary Reductions:	\$ 158,512.64
Investigative Staff Salary Reductions	\$ 35,952.02
Operating Cost Reductions	<u>\$ 20,215.04</u>
Total FY15 Savings (if implemented by December 31, 2014)	\$253,983.53
Projected FY15 Budget Deficit	\$135,349.00
Annualized Expenditure Reductions	\$466,234.86
Projected FY16 Budget Deficit	\$665,950.00

SCHEDULE OF IMPLEMENTATION

The attorneys and investigative staff who are leaving the office are being lost due to attrition. All resignations are effective no later than March 1, 2015. Reassignment of attorneys will become effective no later than March 1, 2015.

TRANSITIONING CASES

Implementation of the Restriction of Services Plan will immediately raise the average caseload of public defenders in the 19th Judicial District, which are currently in excess of the recommended caseload limits of defense attorneys. Should caseloads rise beyond ethical caseload maximums, a waitlist will be established.

Notifying Clients:

The departing attorney will make every effort to inform all clients that a new attorney will be assigned including jail visits, letters, and phone calls. The newly assigned counsel will contact the client as soon as possible to inform the client that they are the new assigned attorney. For incarcerated clients, the attorney will make a visit to the jail prior to any scheduled court hearings. For clients that are not incarcerated, attorneys will send letters to all known client addresses as soon as possible after assignment which includes the new attorney's contact information and request to set up an appointment with the client prior to any scheduled court hearings.

Notifying Courts:

The District Defender will compose letters to the affected courts listing the cases that will have new counsel within their section due to the ROS. The District Defender shall meet with the affected judges to answer any questions. The newly assigned attorney will file a, "Notice of Enrollment" in the matter within two days of assignment and will meet with the District Defender as soon as possible to determine what, if any, motions should be filed in the case.

Assignment of New Cases:

If the average caseload in any section exceeds the recommended caseload limits for defense attorneys in such a way that caseloads become unmanageable, a wait list shall be established for new clients. If the District must implement a wait list, the wait list plan will be discussed with criminal justice stakeholders prior to implementation. Any wait list plan that is developed will be established in such a way that clients who are accused of committing the most serious cases and those clients who are incarcerated will be prioritized by the Public Defenders Office. We define "serious crimes" as all sex crimes requiring registration, all crimes with high mandatory minimums without benefits, and crimes with very high sentencing ceilings. In making a determination of case seriousness or complexity, we equally consider the statute on its face, how the statute is prosecuted in this jurisdiction, and the difficulty of presenting a defense.

Data Management:

As with all cases, when we are assigned the case initially by the court, we open a file immediately which will remain open in our system unless the case is handled by private counsel. However, since our state funding is calculated based on caseload, the Louisiana Public Defender Board (LPDB) will designate the case of any client placed on a waitlist under a separate status to ensure that cases continue to be monitored by the district.

COMMUNICATION

The District Defender will be the media point person within the 19th Judicial District Public Defenders Office. The point person for the 19th Judicial District Court is Chief Judge Donald Johnson. Point person for the local bar is President Robert J. Burns, Jr. of the Baton Rouge Bar Association. Mr. Mitchell can be reached at our office phone number and address, or by email at MMitchell@PublicDefenderBR.com. The Baton Rouge Bar Association's mailing address is 544 Main Street, Baton Rouge, LA 70801. President Burns can be reached at (225) 344-4803.

For the purpose of press releases, the 19th Judicial District Public Defenders Office will be primarily responsible. All press releases will be provided to the LPDB for review and comment prior to release.

Protocol for Communication with Criminal Justice Stakeholders:

As District Defender, I have primarily been in communication with the 19th Judicial District Judges, Family Court Judges, Baton Rouge City Court Judges, and the District Attorney's Office. We have maintained a dialogue with respect to the Office's fiscal outlook. Following, LPDB's passage of a policy stating that Public Defenders Offices are not required to provide Non Support Contempt representation, I spoke with the Family Court Judges regarding client representation by public defenders in these cases. The judiciary has expressed its commitment to raise revenues that will support continued representation in Non Support Contempt cases.

Our office will be issuing a press release and a letter to criminal justice system stakeholders, local government, as well as members of the local bar and community the week of February 16, 2015. Prior to the press release, we will notify the Chief Justice of the Louisiana Supreme Court, president of the Louisiana State Bar Association, all members of the local judiciary, the district attorney's office, the president of the local bar association, the Sheriff, Mayor/President, City Council, and all local legislators. The 19th Judicial District Public Defenders Office is committed to clear, consistent and proactive communication with all of our criminal agency-partners and other affected parties.

QUALITY ASSESSMENT

We will work with our IT support to create a program to provide monthly reports to assist the office in determining the impact of the Restriction of Services Plan on our delivery services and upon our clients. In particular we plan to track the following:

- Average attorney caseload
- Average length of time on the wait list by case seriousness (if a waitlist is implemented)
- Case outcome data

EFFORTS TO REMEDIATE THE RESTRICTION OF SERVICES PLAN

Since the earliest projections of an anticipated Restriction of Services, the 19th Judicial District Public Defenders Office has made various efforts to remediate service restriction. We have approached the East Baton Rouge Parish, City of Baton Rouge government in an effort to gain local revenues. Thus far those efforts have been unsuccessful, although talks are ongoing for future support from the local government. As District Defender, I have attempted to decrease expenditures by implementing a hiring freeze and eliminating across the board raises to support staff, investigators, and attorneys. These moves cost the office valuable, talented attorneys, but have been necessary to maintain or reduce current expenditure levels. Additionally, I have worked with LPDB staff to monitor expenditures and revenues, as well as develop alternatives and available cost savings which are expected to prevent insolvency during FY15.

LITIGATION

We have considered the possibility of litigation due to the Judicial District's restriction of services. As District Defender, I have closely adhered to the terms of each attorney's contract. All departing staff have left the office through normal attrition, no one has been laid off as part of the Restriction of Services Plan. All attorneys and support staff were personally informed of the decision to implement a hiring freeze. It should be noted that it was with considerable difficulty that the attorney positions were eliminated as the district has worked tirelessly to attract talented and dedicated staff while lowering caseloads to ensure quality, ethical client representation. However, these measures are necessary at this time for the long-term viability of the 19th Judicial District Office.